

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

PIONEER SERVICES, INC.,)
Plaintiff,)
v.)
AUTO-OWNERS INSURANCE)
COMPANY, INC., et al.,)
Defendants.)
CIVIL ACTION NO.: 2:06-cv-377-WKW

**MOTION FOR SUMMARY JUDGMENT OF DEFENDANT, AUTO-OWNERS
INSURANCE COMPANY**

COMES NOW Defendant, Auto-Owners Insurance Company (Auto-Owners), and moves this Honorable Court to enter summary judgment in favor of Auto-Owners pursuant to Rule 56(c) of the *Federal Rules of Civil Procedure* and against Plaintiff, Pioneer Services, Inc. (Pioneer). For grounds of this motion, Defendant Auto-Owners avers that there is no genuine issue as to any material fact and that Auto-Owners is entitled to the entry of a judgment in Auto-Owners' favor as a matter of law. This motion is based upon the following:

1. All pleadings and all exhibits thereto, and all motions and orders filed in this action including, but not limited to, Plaintiff's amended complaint (Doc. 1-2 at p. 55-66), Auto-Owners' answer to amended complaint (Doc. 10), and the order of the Circuit Court of Covington County, Alabama dated April 13, 2006, dismissing Counts Three and Four of Plaintiff's amended complaint as well as Defendant South Central Agency, Inc. (Doc. 1-2 at p. 162).

2. The subject Auto-Owners Insurance Company Insurance policy for the policy

period 06-16-04 to 06-16-05 and the authenticating affidavit of Drew Klasing attached as Exhibit "J" to Auto-Owners' Evidentiary Submission filed contemporaneously herewith.

3. Auto-Owners' Evidentiary Submission in Support of Motion for Summary Judgment, and the exhibits thereto, filed contemporaneously herewith.

4. The deposition excerpts of Jimmy Williamson attached as Exhibit A" to Auto-Owners' Evidentiary Submission.

5. The deposition excerpts of Bill Reaves attached as Exhibit "B" to Auto-Owners' Evidentiary Submission.

6. The deposition excerpts of William Barrett attached as Exhibit "C" to Auto-Owners' Evidentiary Submission.

7. The deposition excerpts of John Tomberlin attached as Exhibit "D" to Auto-Owners' Evidentiary Submission.

8. The deposition excerpts of Harold Young attached hereto as Exhibit "E" to Auto-Owners' Evidentiary Submission.

9. Plaintiff's Deposition Exhibit 2 excerpts attached hereto as Exhibit "F" to Auto-Owners' Evidentiary Submission.

10. Auto-Owners Bates Stamped pages AO00001-00299 which is a composite exhibit of documents marked as Pioneer Deposition Exhibits. 1, 3, 4, 5, 6, 7, 10 and/or 11 and/or Auto-Owners Deposition Exhibits 2 and/or 3, and are attached as Exhibit "G" to Auto-Owners' Evidentiary Submission.

11. The affidavit of William Sherman attached as Exhibit "H" to Auto-Owners' Evidentiary Submission.

12. The affidavit of Larry Dewberry attached as Exhibit "I" to Auto-Owners'

Evidentiary Submission.

13. The subject Auto-Owners Insurance Company insurance policy for the policy period 06-16-04 to 06-16-05 and the authenticating affidavit of Drew Klasing attached as Exhibit "J" to Auto-Owners' Evidentiary Submission.

14. The brief and statement of undisputed facts of Defendant, Auto-Owners Insurance Company, in support of motion for summary judgment filed contemporaneously herewith.

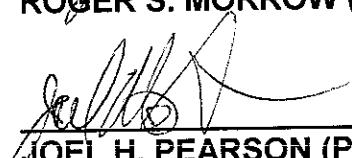
WHEREFORE, Defendant, Auto-Owners Insurance Company, moves this Honorable Court to enter pursuant to Rule 56 of the *Federal Rules of Civil Procedure* a summary judgment in Auto-Owners' favor and against Plaintiff, Pioneer Services, Inc., as to Plaintiff's complaint, as amended. Alternatively, in the event the Court determines that this action may not be disposed of in its entirety by entry of summary judgment in Auto-Owners' favor, Auto-Owners moves this Honorable Court to enter summary judgment in Auto-Owners' favor as to those issues, claims, damages and/or actions upon which the Court determines summary judgment in favor of Auto-Owners is proper.

Dated this the 28th day of February, 2007.

Respectfully submitted,



ROGER S. MORROW (MOR032)



JOEL H. PEARSON (PEA019)
ATTORNEYS FOR DEFENDANT
AUTO-OWNERS INSURANCE COMPANY

OF COUNSEL:

MORROW, ROMINE & PEARSON, P.C.
P.O. Box 4804
Montgomery, AL 36103-4804
Telephone: (334) 262-7707
Facsimile: (334) 262-7742
Email: rsmorrow@mrplaw.com
jhpearson@mrplaw.com

CERTIFICATE OF SERVICE

I hereby certify that on February 28, 2007, I electronically filed the foregoing with the Court using the CM/ECF system, and I hereby certify that I am serving the foregoing document to the following:

Leland Enzor, Jr., Esq.
Enzor & Enzor
P.O. Box 339
Andalusia, AL 36420

Harry P. Hall, II, Esq.
Farmer, Price, Hornsby & Weatherford, LLC
P.O. Drawer 2228
Dothan, AL 36303

Respectfully submitted,


JOEL H. PEARSON (PEA019)
Attorney for Defendant
Auto-Owners Insurance Company
Morrow, Romine & Pearson, P.C.
P.O. Box 4804
Montgomery, Alabama 36103-4804
Telephone: (334) 262-7707
Fax: (334) 262-7742
E-mail: jhpearson@mrplaw.com